



General Assembly

February Session, 2010

Raised Bill No. 272

LCO No. 1643

* ____SB00272JUD__032910__ *

Referred to Committee on Environment

Introduced by:
(ENV)

AN ACT CONCERNING DRUNK BOATING.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (c) of section 15-140q of the 2010 supplement
2 to the general statutes is repealed and the following is substituted in
3 lieu thereof (*Effective from passage*):

4 (c) If the person arrested refuses to submit to such test or analysis,
5 or submits to such test or analysis [commenced within two hours of
6 the time of operation,] and the results of such test or analysis indicate
7 that at the time of the alleged offense such person had an elevated
8 blood alcohol content, the peace officer shall immediately revoke the
9 safe boating certificate, right to operate a vessel that requires a safe
10 boating certificate for operation or certificate of personal watercraft
11 operation, if any, of such person for a twenty-four-hour period. The
12 peace officer shall prepare a written report of the incident and shall
13 mail the report together with any certificate taken into possession and
14 a copy of the results of any chemical test or analysis, to the
15 commissioner within three business days. The report shall be made on
16 a form approved by the commissioner and shall be subscribed and
17 sworn to under penalty of false statement as provided in section 53a-

18 157b by the peace officer before whom such refusal was made or who
 19 administered or caused to be administered such test or analysis. If the
 20 person arrested refused to submit to such test or analysis, the report
 21 shall be endorsed by a third person who witnessed such refusal. The
 22 report shall set forth the grounds for the officer's belief that there was
 23 probable cause to arrest such person for operating such vessel while
 24 under the influence of intoxicating liquor or any drug, or both, or
 25 while such person has an elevated blood alcohol content and shall state
 26 that such person refused to submit to such test or analysis when
 27 requested by such peace officer or that such person submitted to such
 28 test or analysis [, commenced within two hours of the time of
 29 operation,] and the results of such test or analysis indicated that such
 30 person at the time of the alleged offense had an elevated blood alcohol
 31 content.

32 Sec. 2. Subsection (g) of section 15-140q of the 2010 supplement to
 33 the general statutes is repealed and the following is substituted in lieu
 34 thereof (*Effective from passage*):

35 (g) If such person contacts the department to schedule a hearing, the
 36 commissioner shall assign a date, time and place for the hearing, which
 37 date shall be prior to the effective date of the suspension. At the
 38 request of such person and upon a showing of good cause, the
 39 commissioner may grant one continuance for a period not to exceed
 40 thirty days. The hearing shall be limited to a determination of the
 41 following issues: (1) Whether the peace officer had probable cause to
 42 arrest the person for operating the vessel while under the influence of
 43 intoxicating liquor or drugs, or both, or while such person has an
 44 elevated blood alcohol content; (2) whether such person was placed
 45 under arrest; (3) whether such person (A) refused to submit to such
 46 test or analysis, or (B) submitted to such test or analysis [, commenced
 47 within two hours of the time of operation,] and the results of such test
 48 or analysis indicated that at the time of the alleged offense that such
 49 person had an elevated blood alcohol content; and (4) whether such
 50 person was operating the vessel. At the hearing, the results of the test
 51 or analysis shall be sufficient to indicate the ratio of alcohol in the

52 blood of such person at the time of operation, except that if the results
 53 of an additional test, administered pursuant to section 15-140r, indicate
 54 that the ratio of alcohol in the blood of such person is eight-
 55 hundredths of one per cent or less of alcohol, by weight, and is higher
 56 than the results of the first test, evidence shall be presented that
 57 demonstrates that the test results and analysis thereof accurately
 58 indicate the blood alcohol content at the time of operation. The fees of
 59 any witness summoned to appear at the hearing shall be the same as
 60 provided in section 52-260.

61 Sec. 3. Subsection (a) of section 15-140r of the 2010 supplement to
 62 the general statutes is repealed and the following is substituted in lieu
 63 thereof (*Effective from passage*):

64 (a) Except as provided in subsection (d) of this section, in any
 65 criminal prosecution for the violation of section 15-132a, subsection (d)
 66 of section 15-133, section 15-140l or 15-140n or subsection (b) of section
 67 53-206d, evidence respecting the amount of alcohol or drug in the
 68 defendant's blood or urine at the time of the alleged offense, as shown
 69 by a chemical analysis of the defendant's breath, blood or urine shall
 70 be admissible and competent provided: (1) The defendant was
 71 afforded a reasonable opportunity to telephone an attorney prior to the
 72 performance of the test and consented to the taking of the test upon
 73 which such analysis is made; (2) a true copy of the report of the test
 74 result was mailed to or personally delivered to the defendant within
 75 twenty-four hours or by the end of the next regular business day, after
 76 such result was known, whichever is later; (3) the test was performed
 77 by or at the direction of a certified law enforcement officer according to
 78 methods and with equipment approved by the Department of Public
 79 Safety, and if a blood test was performed, it was performed on a blood
 80 sample taken by a person licensed to practice medicine and surgery in
 81 this state, a qualified laboratory technician, an emergency medical
 82 technician II or a registered nurse in accordance with the regulations
 83 adopted under subsection (b) of this section; (4) the device used for
 84 such test was checked for accuracy in accordance with the regulations
 85 adopted under subsection (b) of this section; (5) an additional chemical

86 test of the same type was performed at least thirty minutes after the
 87 initial test was performed or, if requested by the peace officer for
 88 reasonable cause, an additional chemical test of a different type was
 89 performed to detect the presence of a drug or drugs other than or in
 90 addition to alcohol, except that the results of the initial test shall not be
 91 inadmissible under this subsection if reasonable efforts were made to
 92 have such additional test performed in accordance with the conditions
 93 set forth in this subsection and such additional test was not performed
 94 or was not performed within a reasonable time, or the results of such
 95 additional test are not admissible for failure to meet a condition set
 96 forth in this subsection; and (6) evidence is presented that the test was
 97 commenced within two hours of operation of the vessel or expert
 98 testimony establishes the reliability of a test commenced beyond two
 99 hours of operation of the vessel. In any prosecution under this section
 100 it shall be a rebuttable presumption that the results of such chemical
 101 analysis establish the ratio of alcohol in the blood of the defendant at
 102 the time of the alleged offense, except that if the results of the
 103 additional test indicate that the ratio of alcohol in the blood of such
 104 defendant is ten-hundredths of one per cent or less of alcohol, by
 105 weight, and is higher than the results of the first test, evidence shall be
 106 presented that demonstrates that the test results and the analysis
 107 thereof accurately indicate the blood alcohol content at the time of the
 108 alleged offense.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	15-140q(c)
Sec. 2	<i>from passage</i>	15-140q(g)
Sec. 3	<i>from passage</i>	15-140r(a)

ENV *Joint Favorable C/R*

JUD

JUD *Joint Favorable*